

**G-Regs™**

## SPAIN – Cosmetics Advertising Code (Stanpa)



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**Full title:** A Code of Self-Regulation for Responsible Marketing Communication in the Perfume and Cosmetics Sector (*Código de Autorregulación para la Comunicación Responsable del Sector de la Perfumería y la Cosmética*)

**by:** Stanpa - National Perfume and Cosmetics Association (*Asociación Nacional de Perfumería y Cosmética*)

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**Stanpa website introduction:**

Advertising provides information on new products, how they work, to whom they apply, or how to use them more effectively. For this reason, it is very important that advertising is easy for consumers to understand. It must help them make decisions based on relevant and adequate information, in the knowledge that manufacturers are acting in a trustworthy and transparent manner.

In 2012, Cosmetics Europe and its members – amongst them Stanpa – released a set of Guiding Principles for producing responsible advertising and marketing. In addition to promoting the key principles of advertising (legality, truthfulness, genuineness), it also provides information on other areas of interest for consumers.

In order to further strengthen this commitment, in 2015, Stanpa and Autocontrol have voluntarily signed a Code of Self-Regulation for the Responsible Communication in the Perfumery and Cosmetics Sector, which has been accepted by the companies that make up Stanpa and open to accession (signing) by any other company within the sector who wishes to do so. This Code sets out common principles and criteria for offering society and consumers responsible advertising and marketing within the framework of fair competition.

The principles of this Code advocate/ uphold the relevant regulatory and self-regulatory frameworks, at both national and European level; the creation of truthful, unbiased, and honest advertising that is in no way misleading; the protection of fair competition in the market; duty to help consumers make an informed choice ; and finally, being socially responsible.

The principle of truth in advertising includes, among other things, the honest use of images, the proper use of testimonials and recommendations from experts and the inclusion of environmental messages in advertising.

The code incorporates standards of monitoring (for control) and enforcement, a role in which Autocontrol plays an essential part, whose Advertising Jury is responsible for ensuring compliance for all of the basic and general rules and principles set out in the Code. i.e. monitors and implements the Code.

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**SECTION I.****INTRODUCTION**

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The Perfumery, Cosmetic, and Personal Care sector is a sector of great importance and variety, standing between consumerism and healthcare, with rigorous legislation in terms of guarantees/ assurances made to consumers, with responsibilities for the safety of products and a clear vocation to contribute to the wellbeing of people.

Everyone uses cosmetics on a daily basis. Although this concept is generally associated with make-up and colour products, aimed principally at women, under this legal definition (see Annex 2) perfumes and personal care products, hygiene products, oral care products, hair and beauty products are included, in addition to colour cosmetics (i.e. hair colourants). They are with us from the birth of a baby, in adolescence and youth, and up to maturity, men and women, in all cultures throughout the world.

The social value of these habits goes far beyond mere decoration of the skin. The relationship between hygiene and health, via the benefits it (good hygiene) brings to the other (health); the inclusive/integrative value of personal care in society; the increase to self-esteem and the development of emotions are aspects directly related to the quality of life in a society with an ever-increasing life expectancy, (a society) in which people neither want to – nor do they have to – give up on well-being, taking care of themselves and expressing their dreams and aspirations, as an inseparable part of the human dimension. The cosmetics industry in Spain and Europe recognizes the importance of ethical, honest and responsible advertising and marketing communications, since they are the primary means of informing consumers about the characteristics and qualities of cosmetic products.

Furthermore, it recognizes the preservation/advocacy of fair competition which our legal system identifies as the representative/ carrier of collective interests, as much for companies as for consumers.

The purpose of this Code of Conduct is to establish a common set of shared principles and criteria, and to offer society and citizens responsible advertising and marketing communication tailored to our situation/ environment and to the commitment of a fair competition framework.

In 2012, Cosmetics Europe finalized a unanimously accepted drafting of common guidelines translating the principles to which the European Cosmetic Industry commits in terms of responsible advertising and marketing communication into concrete provisions.

This document, entitled "Guiding Principles on Responsible Advertising and Marketing Communication" constitutes a framework of reference for the Cosmetics Industry that consolidates existing principles and best practices, setting out common ground on cosmetics advertising and marketing communication in Europe.

In Spain, the National Perfumery and Cosmetics Association (STANPA - Asociación Nacional de Perfumería y Cosmética) has addressed these common guidelines and assumed responsibility for its dissemination and promotion among its members and throughout the whole sector at national level, approving it as a Code of Conduct in the General Assembly held on November 29, 2012.

This text takes another step forward in the commitment made in recent years, in laying the foundation for the effective safeguarding/ enforcement of self-regulation mechanisms in advertising, via the recognised independence and contribution to society of self-regulatory systems, as a response by the industry itself to the demands of society so that guarantees of trust and credibility exist in advertising.

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## SECTION II.

## CHARTER (DECLARATION OF PRINCIPLES)

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2 of 14

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The commitment to self-regulation begins with this Charter (Statement of Principles) implementing the EU Commission list of Common Criteria and the guiding principles on responsible advertising and marketing communication in the Cosmetics sector.

Through this Charter (Declaration of Principles), the industry expresses its commitment to ensure that advertising and marketing communications must meet four basic principles:

- Comply with the relevant European and national legal and self-regulatory frameworks;
- Be sincere, truthful and not misleading
- Allow consumers to make informed decisions
- Act in a socially responsible manner.

A fifth principle is added to these four principles, which is the protection of fair competition and the respect for industrial and intellectual property rights, in the interests of all of those participating in the market, rejecting acts of unfair competition, including illegal advertising, in the terms established by our legal framework. Each of these principles are described in Section VI, expressing their allegiance/ commitment to them.

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### SECTION III.

#### INTEGRATION OF THE COMMITMENT OF COSMETIC INDUSTRY AT EUROPEAN LEVEL

These principles stem from a common basis for the promotion of responsible advertising in the EU via the European Association of Cosmetics, Cosmetics Europe, of which STANPA is a member.

Reflecting the accepted best practice model for effective advertising self-regulation<sup>1</sup>, Cosmetics Europe consulted a broad range of experts and organisations, involved in the drafting of these principles. They have been prepared by means of a participatory process involving major companies and national associations in the cosmetics industry, including STANPA, which from the outset has actively participated in and supported the whole development and drafting process.

STANPA, an active member of Cosmetics Europe, undertakes to disseminate and promote the implementation of these principles. To this end, STANPA expresses its wish for cooperation with organisations that promote responsible communication, and particularly with Autocontrol, with a view to extending and disseminating these principles nationally.

STANPA, undertakes to properly monitor progress in the adoption of this Code by its members, and to collaborate in a transparent, participatory and reliable manner with European SRO's (Self-Regulatory Organisations) in the making of European co-operation reports (i.e. monitoring reports)

Based on information gathered on progress and implementation, and dialogue with the parties involved, STANPA shall participate in the commitment to update the principles of this Code, in coordination with Cosmetics Europe, and to amend them as necessary, in order to ensure they continue to reflect societal trends and expectations, as well as legislative developments.

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### SECTION IV.

#### OBJECTIVE OF THE CODE

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<sup>1</sup> European Commission 2006 report on Self-Regulation in the EU Advertising Sector  
[http://www.easa-alliance.org/binarydata.aspx?type=doc&sessionId=tqoupa55t3j4v155cnldn545/DGSANCO\\_advertisingRT\\_report.pdf](http://www.easa-alliance.org/binarydata.aspx?type=doc&sessionId=tqoupa55t3j4v155cnldn545/DGSANCO_advertisingRT_report.pdf)  
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The purpose of this Code, accepted on a voluntary basis by the companies that comprise STANPA, and open to accession by any other sector companies who want (to follow) it, is to promote responsible marketing communication in the cosmetics sector.

STANPA members and acceding/ adhering companies (to the Code), undertake to respect and promote the principles and rules set out in this Code and the decisions of Autocontrol's Advertising Jury enforcing it, implementing it (the Code) within the framework of its policy areas, via compliance with a set of ethical standards/ rules on Cosmetic communications aimed at the end-consumer, with the aim of ensuring that the advertisement/ marketing communication is developed respecting the applicable ethical principles of professionalism and responsibility, and ensuring that its staff (employees, delegates or representatives) act in accordance with the principles via its in-house training.

However, the following falls outside the scope of this Code:

- the advertising or promotion of a cosmetic product targeting health professionals
- social awareness campaigns promoted by third party non-profit-making bodies, outside the sector, even when sponsored by companies adhering to the Code, provided that the campaign does not constitute indirect advertising of specific cosmetic products.

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#### SECTION V.

#### COMPLIANCE WITH LEGISLATION

The obligations provided in this Code are considered as additional (supplementary) to compliance with legislation.

The founding principles take as their starting point, in general, the general rules on advertising, consumer protection and unfair competition; and in particular, the Cosmetics own regulatory framework.

Compliance with this Code is based on knowledge of the legal obligations that the company must assume and commitment to accepting ethical and moral conduct that standardizes the existing legal rules and specifies or develops the provisions set out in the law.

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#### SECTION VI.

#### GENERAL PRINCIPLES

##### 1. Complying with the relevant European and national legal and self-regulatory frameworks

The cosmetics industry is committed to fully abide by relevant regulations, directives, laws, and codes of practice. Such legal and self-regulatory framework allows responsible trade and brings benefits to both consumers and economic operators. The industry will continue to co-operate with public authorities and self-regulatory organisations at European and national level, for the benefit of the progression and advancement of society.

##### 2. Advertising which is sincere, truthful and not misleading

The cosmetics industry is committed to ensuring that its advertising and marketing communication will be sincere and truthful, delivering accurate and truthful (not misleading) information to consumers.

Members of the Cosmetics Industry will make true and substantiated claims for their products, not causing confusion with competing products. In particular, environment-

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related claims will be addressed with special responsibility. Companies will not denigrate competitor products in accordance with the relevant rules on advertising.

### 3. Fair Competition in the market

The Cosmetics industry is committed to ensuring the protection of competition in the interests of all those operating in the market. In this context, the advertising, promotion, marketing or offering of cosmetic products plays an important role.

Comparative advertising, via an explicit or implicit reference to the competitor, is permitted provided that certain legal requirements are met, but will be considered unfair and unlawful when the goods are presented as imitations or replicas or similar of goods bearing a protected trade mark or trade name. Acts and manifestations which undermine or exploit, without just cause, the distinctive character, reputation, notoriety, or renown of a product which is subject to a trademark, are considered unfair, as well as the use of another party's distinctive marks (logos) or expressions such as "model" (*modelo*), "type" (*tipo*), "acknowledges / reminds (of) (*recuerda*), "looks like / is similar to" (*se parece a*), "inspired by" (*inspirado en*) or similar. Likewise, the advertising, the commercial practices, the offering for sale and the sale of look-alike products (products which imitate) or similar are considered unfair when they are attributed in the mind of the consumer to the features of the imitated product (i.e. original product) or such activities entail misappropriation (taking unfair advantage) of another party's reputation or efforts. In particular, any advertising, commercial practices, offers for sale, sales of products shall be regarded as falling under such a ban, which directly or indirectly indicate similarity between the promoted product or object of the commercial practice and other well-known third party products (with widespread good image)

### 4. Informed Choices

The cosmetics industry is committed to providing consumers with advertising and marketing communication that will allow them to make informed choices and pick out those products that best suit their needs and expectations. The sector advocates that advertising and marketing communications should not be based on the consumer's lack of knowledge or inexperience, but be honest and exciting, innovative, entertaining and inspiring in a manner consistent with the nature of the products and the benefits they offer.

### 5. Social Responsibility

The cosmetics industry is committed to respecting the values which support a free and democratic society, values which are evolving towards the importance of social responsibility and to recognising the variety of cultures and different standards. Thus, advertising and marketing communications must comply with the generally accepted principles of good taste and decency, and be respectful of human beings as a whole, and especially, the most vulnerable consumers.

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## SECTION VII.

## BASIC PRINCIPLES: SINCERITY AND SOCIAL RESPONSIBILITY

### Part. 1

#### **Advertising sincerity**

The cosmetics industry is committed to providing sincere advertising and marketing communications that do not mislead and misinform the consumer about products' characteristics.

##### 1.1. Product claims substantiation

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Any cosmetic product claim, whether explicit or implicit, must be supported by adequate and appropriate evidence demonstrating the performance of a product. The specific context and circumstances in which the claim is made (including social and cultural factors) should be taken into account.

Claims must conform to:

(a) the list of common criteria developed by the European Commission<sup>2</sup>:

- legal compliance;
- truthfulness;
- evidence support;
- honesty;
- fairness;
- allowing informed decisions.

(b) the "Best practice for claim substantiation evidence"<sup>3</sup>, applying to:

- experimental studies;
- consumer perception tests;
- the use of published information

### 1.2. Honesty in the use of images

In general, current developments and digital techniques may be used to enhance the beauty of images to convey brand personality and positioning or any specific product benefit.

However, the use of pre and post production techniques such as styling, re-touching, lash inserts, hair extensions, etc., should abide by the following principles:

- a) The advertiser should ensure that the illustration of a performance of an advertised product is not misleading (see Product Claim Substantiation).
- b) Digital techniques should not alter images of models such that their body shapes or features become unrealistic and misleading regarding the actual performance achievable by the product.
- c) Pre- and post-production techniques are acceptable provided they do not imply that the product has characteristics or functions that it does not have.

In accordance with the principles set out, and as an example, the following cases will not be considered misleading:

- Using obvious exaggeration or stylized beauty images that are not intended to be taken literally.
- Using techniques to enhance the beauty of the images that are independent from the product or effect being advertised

### 1.3 Proper use of testimonials and specialist recommendations

#### 1.3.1 General Considerations

The advertiser may use testimonials and specialist recommendations to emphasise the characteristics of a cosmetic product or create a brand image, provided that the following requirements are met:

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<sup>2</sup> List of Common Criteria for Claims which may be used with respect to cosmetic products according to Article 20 of Regulation (EC) N° 1223/2009

<sup>3</sup> Annex "Best practice for claim substantiation evidence" in List of common criteria for claims which may be used with respect to cosmetic products according to Article 20 of Regulation (EC) N° 1223/2009

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- a) they are used in the form of written or spoken statements.
- b) They are genuine, responsible and verifiable.
- c) they cannot replace material substantiation of a claim (see Product Claim Substantiation).
- d) they avoid any misrepresentation and misinformation with regards to the nature of the product being advertised, its properties and the achievable results

#### 1.3.2. Validity of testimonials

Testimonials from celebrities, private persons or consumers, etc., may be used provided they are presented as personal assertions or personal impressions of a product.

Testimonials should not be considered as proof of product efficacy that can only be established on the basis of adequate and appropriate evidence (see Product Claims Substantiation).

#### 1.3.3. Strictness on Specialist Recommendations

Recommendations from medical, healthcare or scientific specialists (usually referred to as "specialist(s)") on an ingredient, a product, or a general message on hygiene or beauty, is acceptable provided they are based on certain/ true and adequate evidence (see Product Claims Substantiation) and are not used to support health properties or other distinct properties of cosmetics.

Such specialists must be selected on the basis of their qualifications, expertise or experience in the particular area relevant to the communication made on the product.

#### 1.4. Inclusion of environmental messages in advertising

Advertising agencies employed to market cosmetic products whose advertisements contain environmental claims, must respect the principles of truthfulness, clarity, accuracy, relevance and scientific substantiation (see Product Claims Substantiation).

On that basis/ due to the above, environmental claims which are not literally true or are likely to be misinterpreted or mislead through the omission of the relevant facts, shall not be made.

The eligibility of environmental messages must be comprehensively assessed, paying special attention to the general presentation, the use of symbols and third party certification, and the substantiation of claims made.

Particular attention should be paid to the following items:

##### 1.4.1. General Presentation

The general presentation of a cosmetic product (colours, visuals, etc.) and individual claims shall not:

- a) Be based on false information.
- b) Imply an environmental benefit that the product does not have.
- c) Exaggerate the environmental aspect of the product to which the claim relates.
- d) Emphasise any environmental benefit in order to conceal the aspects which present a negative environmental influence.

##### 1.4.2. Use of symbols / third party certification

- a) Any supporting information, imagery or symbols of an environmental character shall be justified to and understandable by the average consumer.
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- b) The use of symbols or logos must not imply that the product enjoys the endorsement or certification granted by a third party when it is not the case

#### 1.4.3. Accuracy and relevance of the environmental claim

- a) The environmental claim shall be presented in a manner that clearly indicates whether the claim applies to the whole product or only to one of its ingredients, the packaging or to part of a specific service.
- b) The environmental claim shall be relevant to the product in question, and may only be used in an appropriate context or setting.
- c) The claim shall be specific as to the environmental benefit or environmental improvement which is claimed; consequently, an environmental benefit may be claimed provided that an appropriate assessment of the environmental impact of the product has been carried out.

#### 1.4.4. Technical foundation (Substantiation)

- a) Environmental claims for cosmetic products, whether explicit or implicit, must be substantiated by certain and adequate/ appropriate scientific evidence
- b) Test methods and studies being used as evidence must be relevant to the product and to the environmental benefit claimed.
- c) Environmental claims shall be reassessed and updated as necessary in order to accommodate changes in technology, market changes, or other circumstances that could alter the accuracy of the claim.
- d) In the context of "natural" and "organic" cosmetic products, the International Organization for Standardization (ISO) is currently developing a set of technical criteria and definitions regarding organic and natural cosmetic ingredients and products. These technical criteria do not apply to claims but can be used as a reference for the substantiation of claims "natural" and "organic" for cosmetic ingredients and end product.

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## Part 2

### **Social Responsibility in cosmetics marketing communications**

The cosmetics industry is committed to responsible advertising and marketing communication which respect the human being, the physical aspect of the person (body image) and human dignity.

Moreover, by virtue of the very nature of the products, advertising and marketing communication of cosmetics, needs the image (i.e. picture/ visualization) of people in the communication, as well as the image of beauty, well-being, and body care associated with the benefits offered to consumers and society. This fits in with (the commitment of) respecting the human being, and therefore has to take into account the appropriate use of the human body and vulnerability of certain populations to taking certain messages out of context, especially children.

#### 2.1 General Principles

In general, any piece of advertising or marketing communication from the cosmetics sector should be compliant with the general principles of ethics and respect for people, set against the socio-cultural context/ background of the message. In particular:

- (a) Respect for taste and decency. Advertising and marketing communication should not contain statements or audiovisual content that run contrary to the standards of good

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taste, respect, and decency currently prevailing in the socio-cultural environment concerned.<sup>4</sup>

(b) Respect for gender. Advertising and marketing communication should not be hostile towards any gender. Thus, it should not contain any material offensive to either of the sexes and should avoid any content that could be degrading to women or men.

(c) Avoid any offensiveness. Any statement or visual presentation which might cause offence is not acceptable, regardless of to whom it is addressed.

(d) Avoid violence. Advertising and marketing communication of cosmetic products should not appear to condone /warrant or incite illegal or anti-social behaviour.<sup>5</sup>

(e) Not to unlawfully use or play on superstition.<sup>6</sup>

(f) Avoid the use of fear as a marketing communication tool. Advertising of cosmetic products should not without a justified reason play on fear or exploit misfortune or suffering<sup>7</sup>.

(g) No exploitation of inexperience or credulity: Advertising and marketing communication of cosmetic products should not be designed so as to abuse the trust of consumers or exploit their lack of experience or knowledge.

(h) Non-discrimination. Advertising and marketing communication of cosmetic products "should respect human dignity and diversity. It should not incite or endorse any form of discrimination, including that based upon belonging to ethnic groups, nationality, religion, gender, age, disability or sexual orientation".<sup>8</sup>

(i) Avoid any form of denigration: Advertising or marketing communication of cosmetic products "should not denigrate any person or group of persons, firm, organisation, industrial or commercial activity, profession or product, or seek to bring it or them into public contempt or ridicule".<sup>9</sup>

(j) Protection of health and safety: Advertising and marketing communication of cosmetic products "should not, without justification on educational or social grounds, contain any visual presentation or any description of dangerous practices, or situations which show a disregard for safety or health"<sup>10</sup>. Models used should not promote the preference for a body image of extreme thinness contrary to acceptable health standards.

(k) Correct use of humour. Humour may be used positively in the advertising and marketing communication of cosmetic products, ensuring correct usage which does not stigmatize, humiliate or undermine any person or group of persons.

## 2.2 Specific principles applied to the cosmetics industry

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<sup>4</sup> Art. 2 ICC Code: "Marketing communications should not contain statements or audio or visual treatments which offend standards of decency currently prevailing in the country and culture concerned".

<sup>5</sup> Art. 4 ICC Code; para. 3: "Marcoms should not appear to condone or incite violent, unlawful or anti-social behavior".

<sup>6</sup> Art. 4 ICC Code; para. 4: "Marcoms should not play on superstition".

<sup>7</sup> Art. 4 ICC Code; para. 2: "Marcoms should not without justifiable reason play on fear or exploit misfortune or suffering".

<sup>8</sup> Art 4 ICC Code; para. 1: "Marcoms should respect human dignity and should not incite or condone any form of discrimination, including that based upon race, national origin, religion, gender, age, disability or sexual orientation".

<sup>9</sup> Art. 12 ICC Code: "Marcoms should not denigrate any person or group of persons, firm, organisation, industrial or commercial activity, profession or product, or seek to bring it or them into public contempt or ridicule".

<sup>10</sup> Art. 17 ICC Code: "Marcoms should not, without justification on educational or social grounds, contain any visual portrayal or any description of potentially dangerous practices, or situations which show a disregard for safety or health, as defined by local national standards".

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#### 2.2.1. Respect for the human being

Given the possible impact that cosmetics advertising and marketing communication may have on consumers' self-esteem, the following should be taken into consideration when using models in advertising:

- (a) Do not focus on bodies and parts of bodies as objects when not relevant to the advertised product.
- (b) When resorting to nudity, the media used and the intended audience should be considered, avoiding use of nude models in a way that is demeaning, alienating or sexually offensive.

#### 2.2.2. Sensitivity towards vulnerable populations and children

The cosmetics industry is committed to providing responsible advertising and marketing communication towards children and young people.

Advertising of cosmetic products specially designed for children must respect the following considerations:

- (a) Advertising should foster, as far as possible, the sanitary and hygiene benefits tied to cosmetic products for children, by being age appropriate, particularly relating to sun protection products, oral care products and hygiene products (including children's cologne/ perfume, soaps, shampoos and products for acne in adolescents)
- (b) Advertising of decorative cosmetics and perfumes should not incite children to misuse of such products.
- (c) Advertising of cosmetic products, including images, should not promote early sexualisation of young people, respecting the sociocultural context and shared values.

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## SECTION VIII

### MONITORING RULES AND IMPLEMENTATION OF THE CODE

#### 1. Enforcement (monitoring compliance with) of the Code

1.1. Monitoring compliance with all the rules and principles, both general and basic (sections V, VI, VII) set out in this Code, must be carried out/ lies with (lit. corresponds to) the AUTOCONTROL Advertising Jury (hereinafter called "the Jury"), who will be responsible for resolving/ dealing with, according to its own procedural rules<sup>11</sup>, any complaints related to the commercial, advertising or promotional practices of STANPA member companies or companies adhering/ attached to the Code (i.e. signatories, participants), as may be submitted to it for breaches of rules contained therein.

1.2. Companies associated with STANPA or those that follow its Code commit to abide by and comply with immediate effect to the content of the mediation agreements reached and Resolutions/ Decisions of the Jury.

Besides STANPA member companies or those that follow its Code, complaints may be brought before the Autocontrol Jury for alleged breach of the rules of the Code or applicable law by: STANPA itself, any other company or business / professional association, as well as individual consumers or consumer associations, public administrations and, ultimately, any third party with a legitimate interest who considers the rules of this Code to have been violated.

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<sup>11</sup> [http://www.autocontrol.es/pdfs/regl\\_ingles.pdf](http://www.autocontrol.es/pdfs/regl_ingles.pdf)

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1.3. For complaints made against a company associated to STANPA or one following this Code for the alleged infringement of its rules, the Jury will proceed to processing and resolution as provided in its procedural rules.

1.4. The Jury will resolve the complaints that are made against a company associated with STANPA or one following this Code in light of the applicable law and ethical standards contained therein, elucidating, in each case whether or not there has been an infringement of those rules. In addition to declaring the disputed practice (commercial, advertising, promotional) incorrect or unlawful, the Jury Decision which establishes/ finds infringement in the disputed communication may request the definitive cessation (discontinuance) of the same or its modification or correction.

1.5. In those cases which carry a special technical or scientific complexity, and if the Jury deems it appropriate or necessary (either on its own initiative – *ex officio* - or at the request of any of the parties – *ex parte*), may request, after acceptance by the parties, the support of outside experts of recognized standing and necessary independence/ neutrality, in order to assist it in the issues raised by the jury for clarification of those points of technical or scientific nature relevant to the proper resolution of the matter.

The experts shall be subjected to the same duties of abstention and grounds for exclusion that affect members of the Jury in accordance with the provisions of its procedural rules.

In all events, the parties may provide expert evidence as they see fit, freely and at their own expense.

1.6. In any event, the Jury shall determine in its Resolutions/ Decisions which party or parties will bear the administrative costs of processing the complaints, as well as fees from experts that might have been involved in a particular case (i.e. called upon to provide expert opinion), as determined by the Jury --- at its own discretion or at the request of a party. All the fees accrued by Autocontrol during the course of proceedings shall be imposed on the party which has seen all their contentions rejected/ turned down. If the acceptance or refusal is partial (i.e. decision is partially upheld / not-upheld; in the case of a split decision), each party bears its own costs, while the fees and administrative costs mentioned above would be halved.

Consumers, consumer associations, and Public Authorities shall be exempt from payment of such processing fees/ costs.

In cases where these expenses affect companies belonging/ attached to AUTOCONTROL, the rates which this association has established with its members shall be applied to them.

1.7. Both the complainant company and the accused (reported company) undertake/ commit to preserve the confidentiality of the processing of the complaint and its decision/ resolution, refraining from disclosing any information about it, until the decision/ resolution of the dispute has been published by the Jury.

1.8. The decisions made by the Jury under this Code shall be communicated to the parties concerned for their enforcement, and if it affects any of the companies associated with STANPA, it shall be sent to them for their information.

## 2. The Publication of Decisions

All Jury decisions and resolutions will be made public via their publication in the AUTCONTROL magazine, on the website and/ or other media (of Autocontrol), without prejudice to the dissemination measures of the full text that STANPA agrees in each case.

## 3. Prior consultation (copy advice)

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3.1. As an additional means of control/ monitoring and to ensure the adequacy/ alignment of their commercial operations, advertising and promotional activities with this Code, the companies following it may send to the Autocontrol Technical Team, for preliminary review/ prior examination via the prior consultation system or Copy Advice service which is voluntary, confidential, and non-binding, their drafts of advertising pieces, and promotional and commercial activities, in those cases in which there is doubt about their alignment with/ compliance to this Code.

3.2. In the event of disagreement with the content of the copy advice provided by the Autocontrol Technical Team, the consulting company (requester) may voluntarily request a review from the Jury, who, in accordance with its procedural rules and in view of the Copy Advice opinion issued by the Technical Team and the arguments and supporting documents submitted by the company, will decide whether to endorse/approve or revoke its content. The Jury's decision will always be binding. The Section of the Jury that might have known of the review shall abstain from participating in the process which, where applicable, will take place before the Jury in the event that a complaint is made against the advertisement or promotional activity subject to consultation (i.e. where the requester disagrees with Copy Advice opinion and calls for a review, those members of the Jury who had prior knowledge of the review should abstain from the process).

3.3. Companies shall not make public the contents of the Copy Advice nor the fact it has been carried out, although in the event that a dispute arises, they will be able to present it to the Courts of Justice, the authorities, and the Autocontrol Jury.

3.4. The processing of prior consultation to Autocontrol (i.e. Copy Advice) shall carry a cost equal to the rates/ fees envisioned by AUTOCONTROL for this purpose. When the applicant company, in addition to being a member of STANPA is a member of AUTOCONTROL, the membership rate set out in AUTOCONTROL's annual list of services and fees, will be applied to the processing of prior consultation (Copy Advice).

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#### SECTION IX.

#### RELATIONSHIP WITH OTHER CODES

This Code does not affect other obligations that STANPA member companies or those who follow its Code may assume in compliance with other codes of conduct, business practices, or ethics.

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#### SECTION X.

#### INDUSTRY IMAGE

STANPA member companies and those who follow its Code commit to maintain ethical business practices in its relations with other companies and to not damage the image of the industry, nor that of the cosmetic industry in general.

Compliance with the guidelines/ standards, principles and rules contained in this Code will contribute to the promotion of cosmetics which is responsible, complete, truthful and not misleading, which will benefit the health administration, the industry itself, building confidence in it, and the protection and improvement of public health.

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#### SECTION XI.

#### ENTRY INTO FORCE OF THE CODE

This Code shall enter into force on 1 June 2015.

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#### ANNEX 1

#### LIST OF LAWS UNDERLYING THIS CODE

The objective of providing consumers with responsible advertising and marketing communication is enshrined and safeguarded in different laws, which have been taken

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in account in the drafting of this Code. Accordingly, these principles comply with the relevant provisions contained in:

- (a) Directive 2005/29/EC on unfair commercial practices
- (b) Directive 2006/114/EC on misleading advertising and comparative advertising
- (c) Law 34/1988 of November 11, General Advertising.
- (d) Law 3/1991, of January 10, on Unfair Competition.
- (e) Law 29/2009, of 30 December, amending the law relating to unfair competition and advertising to improve the protection of consumers and users
- (f) Article 20 of REGULATION (EC) No 1223/2009<sup>12</sup> on Cosmetic Products which states that claims must not be used "to imply that these products have characteristics or functions which they do not have" and requires the establishment of common criteria for all types of claims. These criteria have been developed by the European Commission in cooperation with Member States and relevant stakeholders.
- (g) Commission Regulation (EU) No 655/2013<sup>13</sup> of 10 July 2013 laying down common criteria for the justification of claims used in relation to cosmetic products.
- (h) The Consolidated ICC (International Chamber of Commerce) Code of Advertising and Marketing Communications Practice (2011)<sup>14</sup>, hereinafter, the ICC Code.

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## ANNEX 2

### DEFINITIONS

For the purposes of this Code of Conduct, terms and definitions that are standard and recognised in legal instruments are used. In particular:

- (a) The term "*cosmetic product*" means "*any substance or mixture intended to be placed in contact with the external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odours*" (Article 2 of the Cosmetic Regulation).
- (b) "*Cosmetic product claims*" refer to "*text, names, trade marks, pictures and figurative or other signs*" used in the labelling, marketing and advertising of cosmetic products (Article 20 of the Cosmetic Regulation).
- (c) The term "*advertising*" or "*advertisement*" means "*any form of marketing communications carried by any media, usually in return for payment or other valuable consideration*" (Consolidated ICC Code). This includes digital marketing communication.
- (d) The term "*marketing communications*" includes "*advertising as well as other techniques, such as promotions, sponsorships and direct marketing, and should be interpreted broadly to mean any communications produced directly by or on behalf of marketers intended primarily to promote products or to influence consumer behavior*" (Consolidated ICC Code).
- (e) "*Misleading advertising*" means "*any advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure a competitor*" (Directive 2006/114/EC).

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<sup>12</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02009R1223-20150416&from=EN>

<sup>13</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R0655>

<sup>14</sup> [http://www.codescentre.com/media/2083/660%20consolidated%20icc%20code\\_2011\\_final%20with%20covers.pdf](http://www.codescentre.com/media/2083/660%20consolidated%20icc%20code_2011_final%20with%20covers.pdf)

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- (f) (f) The term "*average consumer*" means any person "*who is reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors*" (Recital 18, Directive 2005/29/EC).
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14 of 14